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10/037,508	01/04/2002	Doron Chosnek	200302142-1	6307

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EXAMINER

TRAN, NGHI V

ART UNIT PAPER NUMBER

2151

DATE MAILED: 06/28/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

# Office Action Summary

Application No.

10/037,508

Applicant(s)

CHOSNEK ET AL.

Examiner

Nghi V. Tran

Art Unit

2151

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

## Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

- 1) ☒ Responsive to communication(s) filed on 19 May 2006.
- 2a) ☒ This action is FINAL. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

## Disposition of Claims

- 4) ☒ Claim(s) 1-6, 10-15 and 19 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-6, 10-15, and 19 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

## Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

## Attachment(s)

- |  |   |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)   | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                                   | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____  |

## DETAILED ACTION

### ***Claim Rejections - 35 USC § 112***

1. The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

2. Claims 1-6, 10-15, and 19 are rejected under 35 U.S.C. 112, first paragraph, as containing subject matter which was not described in the specification in such a way as to reasonably convey to one skilled in the relevant art that the inventor(s), at the time the application was filed, had possession of the claimed invention.

3. In claims 1 and 10, the applicants wrote "while at the same time precluding the other of the first and second network connectors from being operatively coupled to the management processor" (emphasized added). The examiner cannot find any support for this limitation. The examiner considers the "precluding" as a negative limitation. According to MPEP2173.05(i) "Any negative limitation or exclusionary proviso must have basis in the original disclosure". Since the applicants does not positively describe that while at the same time precluding the other of the first and second network connectors, the examiner considers the limitation "precluding" as a new matter.

4. Claims 2-6, 11-15 and 19 are also rejected under 35 U.S.C. 112, first paragraph, as being dependent on claims 1 and 10.

### ***Double Patenting***

5. The nonstatutory double patenting rejection is based on a judicially created doctrine grounded in public policy (a policy reflected in the statute) so as to prevent the unjustified or improper timewise extension of the "right to exclude" granted by a patent and to prevent possible harassment by multiple assignees. See *In re Goodman*, 11 F.3d 1046, 29 USPQ2d 2010 (Fed. Cir. 1993); *In re Longi*, 759 F.2d 887, 225 USPQ 645 (Fed. Cir. 1985); *In re Van Ornum*, 686 F.2d 937, 214 USPQ 761 (CCPA 1982); *In re Vogel*, 422 F.2d 438, 164 USPQ 619 (CCPA 1970); and, *In re Thorington*, 418 F.2d 528, 163 USPQ 644 (CCPA 1969).

A timely filed terminal disclaimer in compliance with 37 CFR 1.321(c) may be used to overcome an actual or provisional rejection based on a nonstatutory double patenting ground provided the conflicting application or patent is shown to be commonly owned with this application. See 37 CFR 1.130(b).

Effective January 1, 1994, a registered attorney or agent of record may sign a terminal disclaimer. A terminal disclaimer signed by the assignee must fully comply with 37 CFR 3.73(b).

6. Claims 1-6, 10-15 and 19 are provisionally rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claims 1-22 of copending Application No. 10/020,809. Although the conflicting claims are not identical, they are not patentably distinct from each other because the limitation of copending Application No. 10/037,508 is overlapping the limitation of copending Application No. 10/020,809.

This is a provisional obviousness-type double patenting rejection because the conflicting claims have not in fact been patented.

### ***Claim Rejections - 35 USC § 102***

7. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

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(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

8. Claims 1-6, 10-15, and 19 are rejected under 35 U.S.C. 103(a) as being unpatentable over Sun Fire 6800/4810/4800/3800, "Systems Overview" (hereinafter SunFire 6800), in view of Frostrom et al., U.S. Patent No. 6,561,827 (Frostrom).

9. With respect to claims 1 and 10, SunFire 6800 teaches a headless server [i.e. Sun Fire 6800 Server] having a front [i.e. front view of fig.1-2] and a back [i.e. back view of fig.1-2], the server comprising:

- a management processor [i.e. CPU, see page 4 of chapter 1];
- a first network connector [i.e. items 2 or 3 of front view of fig.1-2] disposed on the front of the server [see chapter 1, page 5];
- a second network connector [i.e. item 4 of back view of fig.1-2] disposed on the back of the server [see chapter 1, page 5]; and
- control logic [i.e. I/O controller, see pages 25-26 of chapter 3] adapted to actively cause at least one of the first network connector and the second network connector to be operatively coupled to the management processor [fig.3-1]

However, SunFire 6800 does not explicitly show while at the same time precluding the other of the first and second network connectors from being operatively coupled to the management processor.

In a console network, Frostrom discloses while at the same time precluding the other of the first [i.e. front panel port **20**] and second network connectors [i.e. rear panel port **25**] from being operatively coupled to the management processor [i.e. switch **30** of fig.1].

Therefore, it would have been obvious to one of ordinary skill in the art at the time of the invention was made to modify 6800 in view of Frostrom by adding a switch to the coupling device because this feature needs for an easy and quick setup [col.1, ln.26]. It is for this reason that one of ordinary skill in the art at the time of the invention would have been motivated to modify 6800 in view of Frostrom in order to reduce the great number of patch cords [col.1, ln.31].

10. With respect to claims 2 and 11, SunFire 6800 further teaches the first network connector comprises an Ethernet connector [item 2 of front view of fig.1-2].

11. With respect to claims 3 and 12, SunFire 6800 further teaches the first network connector comprises a serial connector [item 3 of front view of fig.1-2].

12. With respect to claims 4 and 13, SunFire 6800 further teaches the second network connector comprises an Ethernet connector [item 4 of back view of fig.1-2].

13. With respect to claims 5 and 14, Sun Fire 6800 further teaches the second network connector comprises a serial connector [item 5 of back view of fig.1-2].

14. With respect to claims 6 and 15, SunFire 6800 further teaches a switch (i.e. crossbar switch) that, under control of the control logic [see chapter 3, page 25-26].

However, SunFire 6800 does not explicitly show alternately couples the first network connector and the second network connector to the management processor.

In a console network, Frostrom discloses the coupling device [11 i.e. "patch panel"] comprises a switch [30] to adapted to alternately couple the first network connector [20] and the second network connector [25] to the management processor.

Therefore, it would have been obvious to one of ordinary skill in the art at the time of the invention was made to modify 6800 in view of Frostrom by adding a switch to the coupling device because this feature needs for an easy and quick setup [col.1, ln.26]. It is for this reason that one of ordinary skill in the art at the time of the invention would have been motivated to modify 6800 in view of Frostrom in order to reduce the great number of patch cords [col.1, ln.31].

15. With respect to claim 19, SunFire 6800 further teaches the rack [see fig.1-2] comprises a backplane [i.e. patch panel, see item 6 of rear view of fig.1-2], and wherein the second network connector [i.e. items 4 or 5 of back view of fig.1-2] is coupled to the backplane.

### ***Response to Arguments***

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16. Applicant's arguments with respect to claims 1-6, 10-15, and 19 have been considered but are moot in view of the new ground(s) of rejection.

### ***Conclusion***

17. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the date of this final action.

18. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Nghi V Tran whose telephone number is (571) 272-4067. The examiner can normally be reached on Monday-Friday.



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If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Zarni Maung can be reached on (571) 272-3939. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Nghi V Tran  
Patent Examiner  
Art Unit 2151

N.T.

  
**ZARNI MAUNG**  
**SUPERVISORY PATENT EXAMINER**